

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DE LA PEÑA GROUP, P.A.
600 Brickell Ave., Suite 1750
Miami, FL 33131

Plaintiff,

v.

FEDERAL AVIATION ADMINISTRATION
800 Independence Ave, SW
Washington, D.C. 20591

Defendant.

Civil Action No. 12-cv-____

**Complaint for Injunctive Relief
(Freedom of Information Act, 5 U.S.C. § 552)**

Plaintiff, by counsel, complains as follows.

Nature of the Case

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, for injunctive relief to secure agency action to search for and release records sought since November, 2010.

Jurisdiction and Venue

2. The Court has subject matter jurisdiction over this action and personal jurisdiction over the Defendant pursuant to 5 U.S.C. § 552(a)(4)(B).

3. Venue also lies in this District pursuant to 5 U.S.C. § 552(a)(4)(B).

Parties

5. Plaintiff De La Peña Group, P.A. ("DLP") is a law firm located in Miami, Florida. DLP is one of counsel for the Washington Consulting Group ("WCG"). WCG is the plaintiff in an action against Raytheon Technical Services Company, LLC, the Raytheon Corporation and

their employee, Charles Keegan (collectively, “Raytheon”), which is pending in the Superior Court for the District of Columbia. In that action, summarized in *Washington Consulting. Grp, Inc. v. Raytheon Technical Servs. Co.*, 760 F. Supp. 2d 94, 96-99 (D.D.C. 2011), WCG brought misappropriation of trade secrets and proprietary information and unjust enrichment claims against Raytheon. WCG contends that Raytheon and the FAA manipulated the contract bidding process and misused WCG’s proprietary information in order to secure a \$1 billion FAA contract for Raytheon to train air traffic controllers.

6. Defendant Federal Aviation Administration (“FAA”) is part of the Department of Transportation, which is within the Executive Branch of the United States Government. The FAA is an administrative unit with substantial independent authority in the exercise of specific functions and as such is an “agency” within the meaning of 5 U.S.C. § 552(f)(1).

Plaintiff’s FOIA Request

7. About November 22, 2010, Plaintiff served the FAA with a FOIA request, a copy of which is attached as Exhibit 1 and incorporated by reference. Plaintiff set forth 67 topics for which responsive documents were requested.

8. About November 26, 2010, the FAA acknowledged receipt of Plaintiff’s FOIA request by a letter which is attached as Exhibit 2 and incorporated by reference. The FAA designated the aforesaid request as Request 2011-1412.

9. In a May 29, 2012, letter from the FAA to counsel for a party to the related Superior Court action, the FAA stated that Request 2011-1412 has never been answered. A copy of that letter is attached as Exhibit 3 and incorporated by reference. The FAA’s letter has a modest inaccuracy: on December 30, 2010, and January 10, 2011, respectively, the FAA made a partial response to Item 15 and a response to Items 18 and 55. But otherwise the FAA has not

substantively responded to, much less produced, the remaining items designated in FOIA Request 2011-1412.

10. On July 12, 2012, Plaintiff wrote the Manager of the FAA's FOIA and Litigation Support Group a letter seeking a response to Request 2011-1412. A copy of Plaintiff's letter is attached as Exhibit 4 and incorporated by reference.

11. On July 16, 2012, counsel for the FAA wrote Plaintiff a letter that asserted the agency was experiencing a delay in processing Request 2011-1412. A copy of that letter is attached as Exhibit 5 and incorporated by reference.

12. On August 8, 2012, a co-counsel for WCG responded to counsel for the FAA and the Manager of the FAA's FOIA and Litigation Support Group and again sought a response to Request 2011-1412. A copy of that letter is attached as Exhibit 6 and incorporated by reference. No response has been forthcoming.

**Defendant's Failure to Respond and
Plaintiff's Exhaustion of Administrative Remedies**

13. To date, apart from the partial response to one item and a response to two others, the FAA has not responded to Plaintiff's Request 2011-1412.

13. In the circumstances Plaintiff has exhausted its administrative remedies, as required under 5 U.S.C. § 552(a)(4)(C)(1).

**Count I
(Violation of the Freedom of Information Act, 5 U.S.C. § 552)**

14. Plaintiff realleges Paragraphs 1-13.

15. In excess of twenty working days have expired since Plaintiff made a proper request for records maintained by the FAA. Defendant's failure for approximately twenty two months to respond to Plaintiff's Request 2011-1412 constitutes a wrongful withholding of the requested

records from Plaintiff and violates both the FOIA, 5 U.S.C. § 552(a)(4)(B)), and of the regulations governing Defendant's processing of FOIA requests, 49 C.F.R., Pt. 7.

Prayer for Relief

Plaintiff requests that the Court:

- A. Enjoin Defendant from withholding records and order Defendant to process all outstanding items in Request 2011-1412 in an expeditious manner as determined by the Court;
- B. Order Defendant upon completion of the expedited process to produce all outstanding items in Request 2011-1412 and make copies available to Plaintiff;
- C. Award Plaintiff its reasonable attorney's fees and costs incurred in this action;
- D. Retain jurisdiction over this action to secure the Defendant's compliance with Subsections A and B, above; and
- E. Provide such other and further relief as is equitable.

Respectfully submitted,

/s/ Joel P. Bennett

Joel P. Bennett, No. 145227
Law Offices of Joel P. Bennett, P.C.
1208 Eton Court, NW
Washington, DC 20007-3239
202-625-1970-voice
202-625-1973-fax
jbennett@radix.net

/s/ Stephen C. Leckar

Stephen C. Leckar, No. 281691
Law Office of Stephen Leckar
1850 M Street, N.W., Suite 240
Washington, D.C. 20036
(202) 742-4242
(202) 293-0810 (fax)
steve@leckarlaw.com

Attorneys for Plaintiff